



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0834: FRL9990-73-Region 10]

Air Plan Approval; AK; Updates to Curtailment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Alaska State Implementation Plan (SIP) that were submitted by the Alaska Department of Environmental Conservation (ADEC). These proposed revisions update and strengthen ADEC's regulation of residential wood smoke emissions, especially the curtailment program applying to the Fairbanks fine particulate matter nonattainment area.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2018-0834 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the

web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Justin Spenillo, EPA Region 10, 1200 6th Ave, Seattle WA 98101, at (206) 553-6125, or spenillo.justin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA. This supplementary information section is arranged as follows:

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I. Background

On November 28, 2018, ADEC submitted revisions to specific air quality regulations for approval into the federally-enforceable Alaska SIP. The submission includes changes to Alaska Administrative Code Title 18, Environmental Conservation, Chapter 50, Air Quality Control (18 AAC 50), adopted December 8, 2017, and state-effective January 11, 2018. This action addresses a portion of the submitted revisions, specifically those that update and strengthen wood smoke curtailment regulations that apply in the Fairbanks fine particulate matter (PM_{2.5}) nonattainment area and that were previously approved into the Alaska SIP by the EPA on September 8, 2017

(82 FR 42457).¹ We are proposing to take action on submitted updates to solid fuel-fired heating device visible emission standards at 18 AAC 50.075(e), and revisions to the Fairbanks Emergency Episode Plan and associated appendix, state-effective January 11, 2018.² We intend to take action on the remainder of the submission in a separate, future action.³

II. ADEC Revisions

A. Solid Fuel-Fired Heating Device Visible Emission Standards

Submission

The solid fuel-fired heating device visible emissions standards are found in 18 AAC 50.075 and were last approved by the EPA on September 8, 2017 (82 FR 42457). The regulation at 18 AAC 50.075(e) allows ADEC to prohibit the operation of solid fuel-fired heating devices in an area for which ADEC has declared a PM_{2.5} air quality episode under emergency episode provisions included in a local air quality plan that has been incorporated into the State Air Quality Control Plan and adopted by reference in 18 AAC 50.030. In this submission, ADEC revised 18 AAC 50.075(e) to remove a provision that restricted ADEC's authority to prohibit the operation of a solid fuel-fired heating device to periods when the ambient temperature is warmer than any threshold identified in a local air quality plan.

EPA Analysis

Removal of the temperature exemption for operation of a solid fuel-fired heating device during an air quality episode makes this control measure more stringent than the current federally-approved rules and is therefore approvable.

¹ See 40 CFR part 52, subpart C. See also 40 CFR 81.302.

² The Fairbanks Emergency Episode Plan is in Volume II: Section III.D.5.11 and is codified as a matter of State law at 18 AAC 50.030(a). The associated appendix to the plan is in Volume III: Appendix III.D.5.12 and includes the Fairbanks North Star Borough Ordinance No. 2017-18 and No. 2017-44, codified as a matter of State law at 18 AAC 50.030(a).

B. Fairbanks Emergency Episode Plan

Submission

The ADEC submitted multiple edits to the Fairbanks Emergency Episode Plan, adopted by reference at 18 AAC 50.030. Specifically, in Section 5.11.1, the ADEC revised the Air Quality Alert Model to change its model outputs from 8-hour averages to 12-hour averages. In addition, the ADEC added references in Section 5.11.2 to Fairbanks North Star Borough Ordinances No. 2017-18 (March 9, 2017) and No. 2017-44 (June 19, 2017).

The ADEC also revised the Air Quality Episode Thresholds and Exceptions to remove the Stage 3 alert and the associated temperature exemption (see Table 5.11-1) and to identify the rules under a two-stage curtailment program (see Table 5.11-2). Table 5.11-1 and Table 5.11-2 in the Fairbanks Emergency Episode Plan are replicated as Table 1 and Table 2, respectively, of this proposal. The revised Air Quality Episode Thresholds and Exceptions include specific types of heating appliances allowed under the two stages of the curtailment program and identifies waiver and No Other Adequate Source of Heat (“NOASH”) designations and the corresponding allowable uses of solid-fuel fired devices under those designations.

In particular, during a Stage 1 Alert where PM_{2.5} concentrations rise above 25 micrograms per cubic meter (µg/m³), Borough Listed Solid Fuel Burning Appliances with either an approved Stage 1 Waiver and/or NOASH designation may be operated, while use of wood stoves, coal stoves, wood-fired hydronic heaters, wood-fired furnaces, coal-fired hydronic heaters, coal-fired furnaces, fireplace inserts, pellet fuel burning appliances, masonry heaters, cook stoves, fireplaces, waste oil burning appliances, non-permitted outdoor incinerators/burn barrels are prohibited. In addition, campfires, bonfires, ceremonial fires, fire pits are under

³ The remainder of the submission addresses revisions to 18 AAC 50.030(b), 18 AAC 50.075(f), 18 AAC 50.077, 18

voluntary curtailment.

During a Stage 2 Alert, where PM_{2.5} concentrations rise above 35 µg/m³, Borough Listed Solid Fuel Burning Appliances with an NOASH designation may be operated, while use of devices with an approved Stage 1 Waiver, wood stoves, coal stoves, wood-fired hydronic heaters, wood-fired furnaces, coal-fired hydronic heaters, coal-fired furnaces, fireplace inserts, pellet fuel burning appliances, masonry heaters, cook stoves, fireplaces, waste oil burning appliances, non-permitted outdoor incinerators/burn barrels are prohibited; and campfires, bonfires, ceremonial fires, fire pits are prohibited. Please refer to Table 1 and Table 2 below.

Table 1 – ADEC’s Table 5.11-1 Air Quality Episode Thresholds and Exceptions

Episode Feature	Stage 1 Air Alert	Stage 2 Air Alert
PM _{2.5} Threshold, micrograms per cubic meter, (µg/m ³)	25	35
Exceptions During a Power Outage	Yes	Yes

Table 2 – ADEC’s Table 5.11-2 PM_{2.5} Air Quality Episode Appliance-Specific or Waiver-Specific Actions

Appliance Type Or Waiver Type	Stage 1 Air Alert	Stage 2 Air Alert
No other adequate source of heat (NOASH) designation, meets other requirements in 21.28.060	Operation Prohibited except Borough Listed Solid Fuel Burning Appliances (SFBA)	Operation Prohibited except Borough Listed Solid Fuel Burning Appliances (SFBA)

AAC 50.079, and 18 AAC 50.990.

Approved Stage 1 Waiver, meets other requirements in 21.28.060	Operation Prohibited except Borough Listed Solid Fuel Burning Appliances (SFBA)	Operation Prohibited
Wood Stoves	Operation Prohibited	Operation Prohibited
Coal Stoves	Operation Prohibited	Operation Prohibited
Wood-fired hydronic heaters	Operation Prohibited	Operation Prohibited
Wood-fired Furnaces	Operation Prohibited	Operation Prohibited
Coal-fired Hydronic Heaters	Operation Prohibited	Operation Prohibited
Coal-fired Furnaces	Operation Prohibited	Operation Prohibited
Fireplace Inserts	Operation Prohibited	Operation Prohibited
Pellet Fuel Burning Appliances	Operation Prohibited	Operation Prohibited
Masonry Heaters	Operation Prohibited	Operation Prohibited
Cook Stoves	Operation Prohibited	Operation Prohibited
Fireplaces	Operation Prohibited	Operation Prohibited
Waste Oil Burning Appliances	Operation Prohibited	Operation Prohibited
Non-Permitted Outdoor Incinerators, Burn	Operation Prohibited	Operation Prohibited
Campfires, Bonfires, Ceremonial Fires, Fire	Voluntary Curtailment	Operation Prohibited
Cook Stoves	Operation Prohibited	Operation Prohibited

This section also was amended to reference Fairbanks North Star Borough Code 21.28.030 D that regulates particulate matter pollution that crosses the property line provided that the particulate pollution is visible using EPA Method 22 and is $25 \mu\text{g}/\text{m}^3$ greater than ambient air in the immediate vicinity. ADEC adopted the corresponding Fairbanks North Star Borough ordinance by reference at 18 AAC 50.030. In addition, the section on the voluntary burning curtailment program was updated to reflect the history in the area and conversion from a voluntary to a mandatory curtailment program in 2017.

In Section 5.11.3, the ADEC revised the State Episode Program section to allow for the

local air quality plan to issue local air alerts at lower PM_{2.5} concentration thresholds, and to state that Alaska has aligned its rules with the local thresholds as described in Section 5.11.2.

The ADEC also made minor wording changes to the Emergency Episode Plan. The draft and final versions of the Emergency Episode Plan changes can be found in the docket for this action.

EPA Analysis

ADEC's revisions to the Fairbanks Emergency Episode Plan at Volume II: Section III.D.5.11 of the State Air Quality Control Plan improve the State's ability to implement the solid fuel burning device curtailment program via 18 AAC 50.075(e) and make the control measure more stringent. Specifically, the revised two-stage program will regulate more solid fuel burning devices and at lower PM_{2.5} concentrations than the prior three-stage program. Under the three-stage program, there was a Stage 1 voluntary curtailment at 25 µg/m³. In contrast, under Stage 1 of the revised program, all devices are prohibited from burning except those that are Borough Listed Solid Fuel Burning Appliances with either a Stage 1 Waiver and/or a NOASH. Moreover, Stage 1 has changed from voluntary to mandatory curtailment and applies to a larger subset of devices.

Stage 2 has also become more stringent under the revised curtailment program in that it prohibits all burning except for Borough Listed Solid Fuel Burning Appliances with a NOASH. With the removal of Stage 3, the State may now prohibit the use of solid fuel burning devices at lower PM_{2.5} concentrations and may prohibit burning regardless of the ambient temperature. The two-stage curtailment program reduces solid fuel burning at lower concentrations, is mandatory at all stages, and applies to more heating appliances. These changes are intended to reduce emissions in the airshed and are designed to attain the PM_{2.5} National Ambient Air Quality

Standard and further protect health in the community. If our proposed approval is finalized, violations of any air quality episode called pursuant to 18 AAC 50.075(e) at the levels and conditions specified in Table 1 and Table 2, above, will be federally enforceable.

Additionally, the provisions addressing the flow of pollution across property lines provides for additional protection against plume concentrations over $25 \mu\text{g}/\text{m}^3$ from ambient concentrations. Similarly, the submitted revisions to Section 5.11.3 strengthen ADEC's ability to implement the curtailment program by allowing for it to rely on stricter local air quality programs, if present.

C. Fairbanks North Star Borough Ordinance

Submission

As part of the Alaska's November 28, 2018 submittal letter for prioritized revisions, ADEC identified that it was submitting pages 68-84 of "Volume III: Appendix III.D.5.12: Appendix to Volume II. Analysis of Problems, Control Actions; Section III. Area-wide Pollutant Control Program; D. Particulate Matter; 5. Fairbanks North Star Borough PM_{2.5} Control Plan." This refers to the June 19, 2017 Fairbanks North Star Borough Ordinance No. 2017-44, incorporated into the Emergency Episode Plan adopted by reference into 18 AAC 50.030(a) as part of the State Air Quality Control Plan and discussed in Section II.B. It includes the change in the curtailment program from a three-stage curtailment program to a two-stage curtailment program which has been reflected identically in the Fairbanks Emergency Episode Plan and will not be re-reviewed here.

As adopted into state law, pages 68 through 84 of "Volume III: Appendix III.D.5.12: Appendix to Volume II. Analysis of Problems, Control Actions; Section III. Area-wide Pollutant Control Program; D. Particulate Matter; 5. Fairbanks North Star Borough PM_{2.5} Control Plan"

includes the June 19, 2017 FNSB Ordinance No. 2017-44.

EPA Analysis

Generally, the State's adoption by reference of the revised ordinance enhance and strengthen Alaska's State Air Quality Control Plan, as discussed in Section II.B.

III. EPA's Proposed Action

The EPA is proposing to approve and incorporate by reference the following provision into the Alaska SIP at 40 CFR 52.70(c), EPA Approved Regulations and Statutes:

- 18 AAC 50.075(e) Solid Fuel-fired Heating Device Visible Emission Standards, State effective January 12, 2018.

The EPA is proposing to approve, but not incorporate by reference, the following revised sections of the Alaska State Air Quality Control Plan:

- Volume II, Section III.D.5.11 Fairbanks Emergency Episode Plan, State effective January 12, 2018; and
- Pages 68 through 84 of Volume III, Appendix III.D.5.12: Appendix to Volume II. Analysis of Problems, Control Actions; Section III. Area-wide Pollutant Control Program; D. Particulate Matter; 5. Fairbanks North Star Borough PM_{2.5} Control Plan, State effective January 12, 2018.

These proposed revisions to the SIP primarily apply to the Fairbanks PM_{2.5} nonattainment area. As described above, the EPA is proposing to approve the rules, Emergency Episode Plan, reflecting the State-adopted Fairbanks North Star Borough Ordinances as part of state rule in 18 AAC 50.030, as SIP strengthening. These revisions support the state's ability to reduce and manage emissions in the Fairbanks PM_{2.5} nonattainment area. This action does not alter our prior

approval of the plan as meeting Moderate area requirements; and we are not making any findings with respect to the serious plan requirements triggered upon reclassification (82 FR 21711).

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the regulations described in section III. *Regulations to Approve and Incorporate by Reference into the SIP*. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 10 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork

Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 1, 2019.

Chris Hladick,
Regional Administrator,
Region 10.

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